



**Advisory Commission on  
State Emergency Communications**

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EXECUTIVE DIRECTOR

July 8, 1997

Office of the Secretary  
Federal Communications Commission  
1919 M. Street, Room 222  
Washington, D.C. 20554

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RE: In the Matter of Southwestern Bell Telephone Company's Petition for Forebearance from Application of Section 272 of the Communications Act of 1943, as Amended, to Previously Authorized Services; CC Docket No. 96-149

Dear Commission Secretary:

Enclosed are an original and fifteen (15 copies) of Comments on behalf of the Texas Advisory Commission on State Emergency Communications ("TX-ACSEC"). Please distribute the filing as appropriate, and file mark the extra copy and return it in the enclosed self-addressed, stamped envelope.

Thank you for your attention in this matter.

Sincerely,

Richard A. Muscat  
Director, Regulatory Affairs  
State Bar No. 14641550

333 Guadalupe Street  
Suite 2-212  
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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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In the Matter of	§	
	§	
Southwestern Bell Telephone Company's	§	CC Docket No. 96-149
Petition for Forbearance from	§	
Application of Section 272 of the	§	
Communications Act of 1943, as	§	
Amended, to Previously Authorized	§	
Services	§	

To: The Commission

**COMMENTS OF THE TEXAS ADVISORY COMMISSION  
ON STATE EMERGENCY COMMUNICATIONS**

NOW COMES THE TEXAS ADVISORY COMMISSION ON STATE EMERGENCY COMMUNICATIONS (TX-ACSEC), and submits these COMMENTS in response to the Commission's Notice of Pleading Cycle (DA No. 97-1214, June 10, 1997) in CC Docket No. 96-149.

**I.**

**Introduction**

Southwestern Bell Telephone Company's (SWBT) petition for forbearance from application of Section 272, as to 9-1-1 emergency service aspects, may be an issue that, if not handled appropriately, could impact both public health and safety and local telecommunications competition in Texas. In the past, both federal and state utility regulators have recognized the

unique circumstances of 9-1-1 emergency service and applied special rules when necessary to protect the public interest.<sup>1</sup> In considering whether such unique circumstances exist in this situation, the Commission should scrutinize the purposes and goals that are sought to be achieved by applying aspects of Section 272 to 9-1-1 service and evaluate the benefits for and burdens on the public interest.

## II.

### **The Commission Should Scrutinize the Purposes and Goals to be Achieved and Evaluate the Benefits for and Burdens on the Public Interest.**

TX-ACSEC is uncertain of the purposes and goals in applying aspects of Section 272 to 9-1-1 service. If the purpose is to set up a “separate affiliate” and apply the “nondiscrimination requirements” to ensure that the ALECs will have access to E9-1-1 services, Section 251 and federal and state interconnection rules already accomplish that purpose. Adding the separate affiliate requirement might impact local 9-1-1 interconnection arrangements if the “affiliate” were not subject to the same regulatory requirements as the Regional Bell Operating Company (RBOC). If the purpose is to further competition by both telephone companies and information service providers with the RBOC for 9-1-1 data base services to be used for Emergency Service Number (ESN) routing and Automatic Location

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<sup>1</sup> This type of flexibility might be even more necessary in the new competitive multi-service provider environment. Incumbent local exchange companies (ILECs) and alternative local exchange companies (ALECs), as well as wireless carriers, must work together with Public Safety Answering Points (PSAPs) to provide high quality and cost-effective 9-1-1 emergency service to all end-user customers.

Identification (ALI) retrieval, this might be an appropriate purpose. But this requires the Commission to determine, in the record in this proceeding, that it has the authority to establish the appropriate regulatory framework for proper controls over such telephone company and non-telephone company providers, or that each state has the authority to establish that appropriate regulatory framework, or that the Commission can delegate the establishment of that framework to the states for proper control over providers of essential 9-1-1 data base services.

SWBT states in its petition for forbearance that,

Significant disruption of existing E911 systems would result were SWBT required to transfer E911 services and operations to a separate affiliate structured in compliance with Section 272. Such a dramatic change would also disrupt the implementation of arrangements made between SWBT and competitive local service providers for various E911 and related services in connection with negotiated interconnection agreements.

SWBT Petition for Forbearance at p. 3. SWBT further states that it “simply could not deliver its E911 services as efficiently or cost effectively were they subjected to Section 272’s stringent requirements.” Id. SWBT’s statements about “significant disruption of existing E911 systems” and that it “simply could not deliver its E911 services as efficiently or cost effectively” lack sufficient specificity and factual support, at this time. Therefore, TX-ACSEC takes no position on these issues for now.<sup>2</sup> On the issue of disrupting interconnection

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<sup>2</sup> If these statements were supported by facts, however, then such should concern ALECs and wireless carriers that interconnect with the ILEC for E9-1-1 services. But PSAPs should be much more concerned because ILECs, ALECs, and wireless carriers will undoubtedly attempt to seek recovery for cost increases from PSAPs.

arrangements, if SWBT were required to unbundle its state approved tariffs to meet the separate affiliate and nondiscrimination requirements and provide all the 9-1-1 related information to a third-party data base provider, as appears required by Section 272(c)(1), all of its existing interconnection agreements might need to be amended. This would occur when the PSAPs chose to use the third-party data base provider, instead of the RBOC, to provide information for ESN routing and ALI retrieval.<sup>3</sup>

PSAPs in Texas and other states face many new quality of service challenges and potential cost issues from local telecommunications competition. These quality of service challenges and cost issues, especially in a state as large and diverse as Texas, will require that an RBOC providing 9-1-1 service have a dynamic and efficient 9-1-1 network infrastructure. The Commission and state public utility commissions have a means to induce the RBOC to make needed 9-1-1 service improvements through the competitive checklist requirements in Section 271. In reviewing for compliance with the nondiscriminatory access to E9-1-1 service required by Section 271(c)(2)(B)(vii)(I), federal and state regulators can consider not only whether nondiscriminatory E9-1-1 access will be provided “technically” in the short-term but also whether it will be provided “realistically” in the long-term. For example, in reviewing whether Ameritech-Michigan met the competitive checklist as far as 9-1-1 service, the Michigan Public Service Commission noted that while Ameritech had “technically satisfied” the checklist

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<sup>3</sup> This type of “temporary disruption” to local interconnection agreements, however, may occur regardless of the application of Section 272 if PSAPs need to seek another 9-1-1 network provider because the RBOC fails to modernize an analog 9-1-1 network to meet the needs of the changing telecommunications environment.

requirement to provide access to 9-1-1 services, the company should “improve the accuracy of its 911 records.” An Ameritech spokesman said the company “will address those concerns promptly.” Telecommunications Reports, June 16, 1997, at p. 9. In a competitive checklist review, the Commission and state public utility commissions may wish to consider the issue of *how many analog switches the RBOC is still using for 9-1-1 network purposes in a state and whether such continued use is consistent with the competitive checklist.* This will improve the 9-1-1 network infrastructure for all interested parties (i.e., ILECs, ALECs, wireless carriers, PSAPs, and end-user customers). Applying the separate affiliate and nondiscrimination requirements in Section 272 to 9-1-1 data base services, on the other hand, may just give the RBOC a reasonable justification not to make needed improvements because that responsibility has now been transferred to a separate affiliate with no statutory or regulatory responsibilities.

## CONCLUSION

The 9-1-1 emergency service issues raised in relation to the forbearance petitions deserve attention and consideration. Both federal and state utility regulators have recognized the unique circumstances of 9-1-1 emergency service and applied special rules when necessary to protect the public interest. In considering whether such unique circumstances exist in this situation, the Commission should scrutinize the purposes and goals that are sought to be achieved by applying aspects of Section 272 to 9-1-1 data base service and evaluate the benefits for and burdens on the public interest. Depending on that scrutiny and evaluation, and the rulings on the forbearance petitions, the Commission may need to determine that it has the authority to establish the appropriate regulatory framework for proper controls over telephone

company and non-telephone company providers, or that each state has the authority to establish that appropriate regulatory framework, or that the Commission can delegate the establishment of that framework to the states for proper control over providers of essential 9-1-1 data base services.

Respectfully submitted,



RICHARD A. MUSCAT

Director Regulatory/Legal Affairs

State Bar No. 14741550

Advisory Commission on State Emergency Communications

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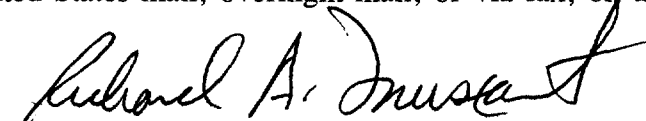
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon all required parties, by prepaid United States mail, overnight mail, or via fax, on this 9th day of July 1997.



RICHARD A. MUSCAT

96149.int



## Advisory Commission on State Emergency Communications

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Richard A. Muscat  
Director, Regulatory Affairs  
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